



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

JUN 26 2014

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Bill Johnson, Jr.  
Northcutt, Inc.  
5055 N. Broadway Street  
Wichita, Kansas 67219

Dear Mr. Johnson:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Northcutt, Inc. (you). We find that you have violated the Clean Air Act, 42 U.S.C. § 7413(a) (the CAA), specifically the Significant New Alternative Policy Program regulations at 40 C.F.R. Part 82, Subpart G. EPA promulgated these regulations under Section 608 of the CAA, 42 U.S.C. § 7671g.

We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us, either in person or by telephone, about the violations cited in the FOV. The conference will give you the opportunity to present information on the specific findings of violations, the efforts you have taken to comply and the steps you will take to prevent future violations.

Please plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Katie Owens. You may call her at (312) 886-6097 to request a conference. You should make the request within 10 calendar days after receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

George T. Czerniak  
Director  
Air and Radiation Division

cc: Mark Smith, U.S. EPA, Region 7  
Randy Owen, Kansas Department of Health & Environment

1. Section 612 of the CAA, 42 U.S.C. § 7671k, authorizes EPA to identify, review and restrict the use of substitutes for “Class I” and “Class II” ozone-depleting substances (ODS).
2. Under Section 602(b) of the CAA, 42 U.S.C. § 7671a(a), Congress identified “CFC-12” as a “Class I” ODS.
3. Under Section 602(b) of the CAA, 42 U.S.C. § 7671a(a), Congress identified “CFC-115” as a “Class I” ODS.
4. Under Section 602(b) of the CAA, 42 U.S.C. § 7671a(b), Congress identified “HCFC-22” as a “Class II” ODS.
5. Section 612(a) of the CAA, 42 U.S.C. § 7671k(a), requires that, to the maximum extent practicable, Class I and Class II ODS be replaced by chemicals, products substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment.
6. Under Section 612(c) of the CAA, 42 U.S.C. § 7671k(c), EPA promulgated the SNAP program regulations at 40 C.F.R. Part 82, Subpart G. These regulations establish standards and requirements for the use of Class I and Class II substances used in specific major industrial sectors where a substitute is used to replace an ODS including, among other things, refrigeration and air conditioning. *See* 59 *Fed. Reg.* 13044 (March 18, 1994).

7. Among the purposes of the SNAP regulations is to provide for safe alternatives to ODS. 40 C.F.R. § 82.170(a).
8. Among the objectives of the SNAP program is to identify substitutes for ODS that present lower overall risks to human health and the environment relative to the Class I and Class II substances being replaced. 40 C.F.R. § 82.170(b).
9. Under the SNAP regulations at 40 C.F.R. § 82.176(a), any producer of a new substitute must submit a notice of intent to introduce a new substitute into interstate commerce 90 days prior to such introduction.
10. Under the SNAP regulations at 40 C.F.R. § 82.174(a), no person may introduce a new substitute into interstate commerce before the expiration of 90 days after a notice is initially submitted to EPA under 40 C.F.R. § 82.176(a).
11. Under the SNAP regulations at 40 C.F.R. § 82.172, “substitute or alternative” is defined as “any chemical, product substitute, or alternative manufacturing process, whether existing or new, intended for use as a replacement for a class I or class II compound.”
12. Under the SNAP regulations at 40 C.F.R. § 82.172, “use” is defined as “any use of a substitute for a Class I or Class II ozone-depleting compound, including but not limited to use in a manufacturing process or product, in consumption by the end-user, or in intermediate uses, such as formulation or packaging for other subsequent uses.”
13. Under the SNAP regulations at 40 C.F.R. § 82.172, “person” is defined to include a corporation.
14. Under the SNAP regulations, a substitute is exempt from the notice of intent requirement of 40 C.F.R. § 82.176(a) as a so-called “second generation replacement” only if it is designed to replace a non-ODS substitute that EPA has previously approved and if the original Class I or Class II ODS refrigerant is no longer being used or is no longer available for use. *See 59 Fed. Reg.* 13044, 13052.
15. Under the SNAP regulations, it is illegal to use a hydrocarbon refrigerant as a substitute for a Class I or Class II ODS refrigerant for any end use other than industrial process refrigeration systems, or retail food refrigerators and freezers (stand-alone units only). *See 69 Fed. Reg.* 11946, 11952 (March 12, 2004), and *76 Fed. Reg.* 78832 (December 20, 2011).

### **Factual Background**

16. Northcutt is a corporation with a place of business at 5055 N. Broadway Street, Wichita, Kansas (the Wichita facility).

17. At the Wichita facility, Northcutt sells and distributes three products it refers to as "HC-12a," "HC-22a," and "HC-502a," respectively.
18. "HC-12a" is a hydrocarbon refrigerant.
19. "HC-22a" is a hydrocarbon refrigerant.
20. "HC-502a" is a hydrocarbon refrigerant.
21. Northcutt's website states that Northcutt is "manufacturing, blending, packaging & distributing the HC Refrigerant line."
22. The Material Safety Data Sheet for "HC-12a," "HC-22a," and "HC-502a" states that "flammable air vapor mixtures may form if allowed to leak to atmosphere. Accumulation of gas is an ignition hazard. Vapors are heavier than air & may travel to an ignition source. Flashback along vapor trail may occur."
23. Hydrocarbons are flammable substances. *See, e.g.,*  
<http://www.epa.gov/ozone/snap/refrigerants/hc-12a.html>
24. Northcutt's website states that the product "HC-12a" "is designed as a drop-in replacement for ozone-depleting CFC R12 and global-warming HFC R134a refrigerant" and "is acceptable as a substitute for CFC 12 in retrofitted and new industrial process refrigeration systems."
25. Northcutt's website states that the product "HC-22a" "is designed as a drop-in replacement for ozone-depleting HCFC R22 refrigerant."
26. Northcutt's website states that the product "HC-502a" "is designed as a drop-in replacement for ozone-depleting CFC R502 refrigerant."
27. R-12 is a non-flammable, Class I, ODS approved by EPA for use as a refrigerant in chillers, industrial process refrigeration systems, ice skating rinks, industrial process air conditioning, cold storage warehouses, refrigerated transport, retail food refrigeration, vending machines, water coolers, commercial ice machines, household refrigerators and freezers, residential dehumidifiers, motor vehicle air conditioning, and heat transfer.
28. R-22 is a non-flammable, Class II, ODS approved by EPA for use in industrial process refrigeration systems, ice skating rinks, cold storage warehouses, retail food refrigeration, residential dehumidifiers, motor vehicle air conditioning, and residential and light commercial air conditioning and heat pumps.
29. R-115 is a non-flammable, Class I, ODS approved by EPA for use in heat transfer.

30. R-502 is a non-flammable, Class I, ODS approved by EPA for use in ice skating rinks, cold storage warehouses, refrigerated transport, retail food refrigeration, vending machines, water coolers, commercial ice machines, and household refrigerators and freezers.
31. R-12 is another name for CFC-12. <http://www.epa.gov/ozone/geninfo/numbers.html>
32. R-22 is another name for HCFC-22. <http://www.epa.gov/ozone/geninfo/numbers.html>
33. R-115 is another name for CFC-115. <http://www.epa.gov/ozone/geninfo/numbers.html>
34. R-502 is composed of 48.8% R-22 and 51.2% R-115.  
<http://www.epa.gov/ozone/snap/refrigerants/refblend.html>
35. EPA has not approved “HC-12a” as a substitute for R-12 or CFC-12.
36. EPA has not approved “HC-22a” as a substitute for R-22 or HCFC-22.
37. EPA has not approved “HC-502a” as a substitute for R-502.
38. Northcutt introduced “HC-12a” into commerce before the expiration of 90 days after a notice of intent has been initially submitted to EPA.
39. Northcutt introduced “HC-22a” into commerce before the expiration of 90 days after a notice of intent has been initially submitted to EPA.
40. Northcutt introduced “HC-502a” into commerce before the expiration of 90 days after a notice of intent has been initially submitted to EPA.
41. The original Class I substance that “HC-12a” is intended to replace, CFC-12, is still available for use as a refrigerant and is used throughout the industry.
42. The original Class II substance that “HC-22a” is intended to replace, HCFC-22, is still available for use as a refrigerant and is commonly used throughout the industry.
43. The original Class I substance that “HC-502a” is intended to replace, R-502, is still available for use as a refrigerant and is used throughout the industry.

#### **Conclusions of Law**

44. Northcutt is a “person” under the SNAP regulations.

45. "HC-12a" is a product substitute intended for use as a replacement for a Class I or Class II compound, and thus a "substitute," as defined by the SNAP regulations at 40 C.F.R. § 82.172.
46. "HC-22a" is a product substitute intended for use as a replacement for a Class I or Class II compound, and thus a "substitute," as defined by the SNAP regulations at 40 C.F.R. § 82.172.
47. "HC-502a" is a product substitute intended for use as a replacement for a Class I or Class II compound, and thus a "substitute," as defined by the SNAP regulations at 40 C.F.R. § 82.172.
48. Northcutt's introduction of "HC-12a" into interstate commerce before the expiration of 90 days after a notice of intent has initially been submitted to EPA constitutes a violation of 40 C.F.R. § 82.174(a).
49. Northcutt's introduction of "HC-22a" into interstate commerce before the expiration of 90 days after a notice of intent has initially been submitted to EPA constitutes a violation of 40 C.F.R. § 82.174(a).
50. Northcutt's introduction of "HC-502a" into interstate commerce before the expiration of 90 days after a notice of intent has initially been submitted to EPA constitutes a violation of 40 C.F.R. § 82.174(a).

#### **Risks to Human Health and the Environment**

51. The use of "HC-12a," a hydrocarbon refrigerant, in unapproved uses, as a substitute for R-12 creates the potential for explosion and fires. As such, it presents a serious risk to human health and the environment.
52. The use of "HC-22a," a hydrocarbon refrigerant, in unapproved uses, as a substitute for R-22 creates the potential for explosion and fires. As such, it presents a serious risk to human health and the environment.
53. The use of "HC-502a," a hydrocarbon refrigerant, in unapproved uses, as a substitute for R-502 creates the potential for explosion and fires. As such, it presents a serious risk to human health and the environment.

**Finding of Violation**

54. For the above reasons, EPA finds that Northcutt has violated the SNAP regulations at 40 C.F.R. § 82.174(a).

Date

6/26/14

George T. Czerniak  
Director  
Air and Radiation Division



## CERTIFICATE OF MAILING

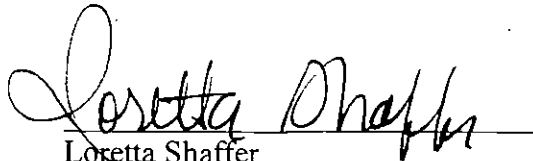
I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-14-COE-02, by Certified Mail, Return Receipt Requested, to:

Mr. Bill Johnson, Jr., President  
Northcutt, Inc.  
5055 N. Broadway Street  
Wichita, Kansas 67219

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Phillip Brooks  
USEPA Headquarters  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 2242A  
Washington, D.C. 20460

On the 27 day of June 2014.

  
Loretta Shaffer  
Administrative Program Assistant  
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70010320000601859989